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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,704	06/01/2007	Maria Isabel Crespo Crespo	LABO-003/02US 311815-2022	6572
58249	7590	08/03/2010	EXAMINER	
COOLEY LLP ATTN: Patent Group Suite 1100 777 - 6th Street, NW WASHINGTON, DC 20001			RAO, DEEPAK R	
			ART UNIT	PAPER NUMBER
			1624	
			MAIL DATE	DELIVERY MODE
			08/03/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,704	<b>Applicant(s)</b> CRESPO CRESPO ET AL.	
	<b>Examiner</b> Deepak Rao	<b>Art Unit</b> 1624	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 14, 16, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 14, 16, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This office action is in response to the amendment filed on June 7, 2010.

Claims 1-8, 14, 16, and 18-19 are pending in this application.

#### ***Withdrawn Rejections/Objections:***

Applicant is notified that any outstanding rejection/objection that is not expressly maintained in this office action has been withdrawn or rendered moot in view of applicant's amendments and/or remarks.

#### ***The following rejections are maintained:***

Claims 1-4, 7-8, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cai et al., WO 02/47690. The reasons from the previous office action are incorporated here by reference.

The reference teaches a generic group of 2,6-di-heteroaryl-4-(hetero)arylamino pyrimidine compounds, which embraces applicant's instantly claimed compounds. See formula (II) in page 11 and the corresponding species of the examples, particularly, Examples 109-114 (pages 92-94 and 140-141). The compounds are taught to be useful as pharmaceutical therapeutic agents, see pages 40-41. There are number possibilities of structural analogs of the reference disclosed compounds and these are taught and/or suggested in the reference. It would have been obvious to one having ordinary skill in the art at the time of the invention to select any of the species of the genus taught by the reference, including those instantly claimed, because the skilled chemist would have the reasonable expectation that any of

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the species of the genus would have similar properties and, thus, the same use as taught for the genus as a whole i.e., as therapeutic agents.

Applicant argues that 'the reference compounds are useful as activators of caspases and inducers of apoptosis and are useful to treat cancer. In contrast to the reference compounds, the compounds of the present invention are A<sub>2A</sub> receptor antagonists useful for the treatment of CNS disorders. There is no teaching or suggestion in the reference that would lead one skilled in the art to select compounds of the presently claimed invention for any indication other than related to treatment of cancer'. This is not found to be persuasive because one of ordinary skill in the art based on the reference teachings would have been motivated to prepare the structurally analogous compounds (as described in the previous office action, for example, a compound disclosed in the reference further having a methyl substituent in place of hydrogen, etc.) with the reasonable expectation of obtaining compounds having properties consistent with the properties of the reference compounds. There is nothing on the record to show that the reference compounds do not possess the activity disclosed for the compounds of the instant invention. Applicants must prove that the claimed compounds possess a property that the prior art compounds do not possess. If the prior art compound does in fact possess a particular activity or benefit, even though the activity or benefit is not recognized in the prior art, applicant's recognition of the activity or benefit is not in itself sufficient to distinguish the claimed compounds from the prior art. The discovery of additional use not disclosed in the reference does not make otherwise obvious compounds unobvious. See *In re Best*, 195 USPQ 430 (CCPA 1977). As indicated above, one of ordinary skill in the art would have been motivated to prepare compounds that are structurally analogous to the reference compounds, i.e., by substituting one

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substituent with another equivalent substituent, with the reasonable expectation of obtaining compounds having properties consistent with the properties of the reference compounds. The rejection of the previous office action is thus maintained.

***The following rejections are necessitated by the amendment:***

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8, 14, 16 and 18-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the structural formula is not consistent with the formula (I) of the disclosed invention. The center ring is shown to be a "phenyl" ring whereas all the compounds disclosed in the specification and in the dependent claims are "pyrimidinyl" compounds. Correction of the structural formula in claim 1 is required.

***Allowable Subject Matter***

Claims 5-6, 14, 16 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deepak Rao whose telephone number is (571) 272-0672. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson, can be reached at (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/Deepak Rao/  
Primary Examiner  
Art Unit 1624**

August 2, 2010